

IPEX Pty Ltd – Website and Platform Terms and Conditions

Date of last revision: 15/11/2022

1. Introduction

1.1 IPEX Pty Ltd (ABN 52 636 087 351) of Level 2 51-65 Clarke Street, Southbank VIC 3006 (“**IPEX**”, “**us**” or “**we**”) provides the:

1.1.1 ipex.com.au website (“**Site**”); and

1.1.2 IPEX payment software platform to assist you to facilitate payment of project funds for the performance of works in connection with a project (“**Platform**”).

1.2 These terms and conditions (“**Terms**”) are deemed to incorporate our privacy policy which explains how we collect, use and disclose or otherwise handle your personal information (**Privacy Policy**) available at <https://ipex.com.au/privacy/> and should be read together with these Terms. The provisions of the Privacy Policy apply as if set out in full in these Terms.

1.3 In the Terms:

1.3.1 ‘**you**’ means:

- the person accessing or using the Site or the Platform, or the services provided through or in connection with the Site or the Platform; and
- when applicable, also includes a reference to the Organisation and your employer if that is not the Organisation; and

1.3.2 ‘**Organisation**’ means the Principal, Head Contractor, or Subcontractor that has agreed to use the IPEX Platform in respect of a Project with which you are associated.

1.4 Please read the following Terms carefully before using the Site or the Platform.

2. Acceptance of Terms

2.1 These Terms govern your access and use of the Site and the Platform, including any data, information, content, or materials on, forming part of, or available in connection with, the Site or the Platform, and any services provided through or in connection with the Site or the Platform.

2.2 By creating an account or otherwise accessing or using the Site or the Platform, you are agreeing to these Terms. If you do not agree to these Terms, you must immediately delete your account or cease accessing or using the Site or the Platform.

2.3 We may amend these Terms at any time and will take reasonable steps to bring any material changes to your attention. As you will be bound by any amendment to these Terms, you should review these Terms from time to time. By continuing to use the Site or the Platform after any amendment to these Terms, you will be deemed to have accepted the amended Terms. If any change has a detrimental effect on you, you may delete your account in accordance with clause 18.1 below or cease accessing or using the Site or the Platform.

3. Registration for the Platform

3.1 In order to use the Platform, you must register to use the Platform via the relevant link on the registration page. When you access and successfully create an account, you become a **'User'**.

3.2 To register for the Platform, you must provide IPEX with certain true and correct personal information about yourself (the **"User Information"**), as requested by us. User Information requested by us may include, but is not necessarily limited to:

3.2.1 your Organisation company / business name;

3.2.2 your first name and last name;

3.2.3 date of birth;

3.2.4 your email address and contact number;

3.2.5 residential address;

3.2.6 your professional role and area of expertise;

3.2.7 information about your Platform user type, being whether you are signing up on behalf of the Principal, Head Contractor, Subcontractor or any other party working in relation to a Project;

3.2.8 your Organisation bank account details (such as BSB number and account number);

3.2.9 identification documents (could be driver's licence, passport or Medicare card);

3.2.10 ABN number or a unique organisational identifier;

3.2.11 your password; and

3.2.12 any other information that may be required in order to register you as a User of the Platform.

3.3 Users must be associated with an Organisation. An account must be registered for the Organisation.

3.4 If you are registering an account on behalf of an Organisation, you warrant that you are an agent of that Organisation, that you are authorised to register that account, and that the Organisation has agreed to be bound by these Terms.

3.5 IPEX may notify you of specific requirements in relation to account creation from time to time.

3.6 IPEX may refuse to register your account on the Platform and/or provide you with access to certain parts of the Platform, or revoke a User's registration, where it is reasonably necessary to protect our legitimate interests.

3.7 We may be unable to register your account if you fail to provide the requested information, if you provide incorrect information, or IPEX reasonably considers that you do not fall into the category of Organisation that you have selected. We generally try to provide you with an explanation if we have refused or revoked your registration.

3.8 By creating an account on the Platform as a User you confirm that you are at least 18 years of age. You must not create an account on the Platform if you are under 18 years of age.

4. Using the Platform

4.1 Your access to the functionality and features of the Platform will vary depending on your Organisation .

4.2 Each Organisation will have specific rights and obligations in relation to the Platform as described below. You must comply with the terms according to the Organisation you are associated with.

Principal

4.3 The **Principal** is the developer or authorised development manager of the relevant development project (**Project**).

4.4 The Principal may engage a head contractor (as described below) to provide certain services and perform work in respect of the Project under a construction contract (**Contract**).

4.5 During the onboarding stage, the Principal must, together with the Head Contractor, determine the set payment percentage for preliminaries and margin in relation to the Project.

4.6 The Principal has the ability to:

4.6.1 Create and update a business entity profile on the Platform;

4.6.2 View the Approved Data (as defined below) provided in the 'Developer Portal' dashboard made available on the Platform and invite authorised users (such as the appointed superintendent or the Project financier's appointed quantity surveyor) to view this data; and

4.6.3 Assess, consent or reject payment instructions.

4.7 If step in rights apply (as described in clause 7), then the Principal will have the same access rights as the Head Contractor as described below.

4.8 The Principal cannot make any security changes to the Platform.

Head Contractor

4.9 The **Head Contractor** is the builder or appointed construction contractor of the Project who has entered into a construction contract with the Principal for the Project.

4.10 The Head Contractor may engage a Subcontractor (as described below) to provide certain services and perform work in respect of the Project under a Subcontract (as defined below).

4.11 The Head Contractor must:

4.11.1 Establish and maintain authorised user access;

4.11.2 Ensure that only authorised persons from within the Head Contractor's organisation can access payment instructions;

4.11.3 Open a Project Account (as defined below) to be operated and managed through the Platform prior to the commencement of any work under the relevant contract;

4.11.4 Upload directly to the Platform details of any security, retention moneys or otherwise to be deducted from payment to Subcontractors in accordance with the terms of the relevant contract;

4.11.5 Ensure all information, such as contact details and business information, are accurate, complete and up to date at all times;

4.11.6 Make payments instructions to the relevant Subcontractor in connection with the Project using the Platform;

4.11.7 during the onboarding stage, together with the Principal, determine set payment percentage for preliminaries and margin in relation to the Project;

4.11.8 upload payment instructions to the Platform in accordance with and subject to clause 4.14

4.11.9 if a Subcontractor ceases to perform work on a Project, notify IPEX to remove them as an authorised user for that Project;

4.11.10 rectify any factual errors and immediately notify IPEX if there are any errors or omissions in relation to the particulars in respect of the relevant contract in relation to the Project;

4.11.11 ensure that all payment instructions uploaded the Platform are for legitimate and lawful purposes; and

4.11.12 comply with all of its obligations under its contract a Principal and its contracts with any Subcontractors.

4.12 The Head Contractor will receive payments to its own designated operating bank account through the following methods and processes:

4.12.1 contemporaneous payments made with each Subcontractor payment batch based on the payment instructions uploaded by the Head Contractor and based on the percentage for preliminaries and margin set during onboarding of the Project on the Platform (**P&M%**), in accordance with the following formula:

Payment to Head Contractor = Total value of payments in batch to Subcontractors / (1 – P&M%) x P&M% (e.g. if P&M% is 20% and the Head Contractor (builder) uploads a payment instruction to pay a Subcontractor \$80, IPEX will calculate and include in the instructions for the Head Contractor (builder) to submit to the authorised financial institution \$20 to be paid into their designated operating account

4.12.2 The Head Contractor may make a redraw request (without the consent of the Principal) to redraw any of its previous voluntary deposits into the account to the extent they have not been previously withdrawn;

4.12.3 The Head Contractor may make a redraw request, subject to the Principal's consent, for any available surplus funds in the Project account. The Principal must approve the request before the Head Contractor can submit the payment for authorisation;

4.12.4 Where the Head Contractor requests payment to itself for retention amounts held for designated Subcontractors, the relevant Subcontractor will be notified of the same and the instructions may only be submitted for authorisation with a future date of at least 14 days; and

4.12.5 following verification of Practical Completion as defined in the contract, the remaining balance of the account will be available to the Head Contractor.

4.13 A Head Contractor must not to seek to circumvent the Platform or operate the account in a manner not authorised by these Terms.

4.14 IPEX will check that all payment instructions contained in uploaded ABA files contain only instructions for payments to:

4.14.1 the Head Contractor, if the request is in accordance with clauses 4.12.2, 4.12.3, 4.12.4 or 4.12.5; or

4.14.2 the Subcontractors on the relevant Project, if the instruction is uploaded in accordance with clause 4.12.1.; and will reject ABA files that do not satisfy one of these criteria.

4.15 The Head Contractor acknowledges and agrees that any payment instruction file it uploads to the Platform for the purpose of paying its Subcontractors on a relevant project will be modified in the following manner:

4.15.1 a payment instruction will be added in favour of the Head Contractor in accordance with the formula outlined in clause 4.12.1 and as notified prior to the submission of the instructions for authorisation;

4.15.2 a payment instruction will be added in favour of the Retention Account specified for the relevant project for the calculated amounts in accordance with the relevant Subcontracts and as notified prior to the submission of the instructions for authorisation;

4.15.3 if any Platform Fee is payable by the Subcontractor, the payment instruction to that Subcontractor will be reduced by the invoice amount; and

4.15.4 a payment instruction will be added in favour of IPEX for the sum of all reductions made in clause 4.12.2 on account of Platform Fees.

4.16 The Head Contractor acknowledges and agrees that the payment instruction it authorises with the authorised financial institution have been modified in accordance with the steps outlined in clause 4.15.

4.17 A Head Contractor cannot make security changes to the Platform.

Subcontractor

4.18 The **Subcontractor** is the subcontractor or supplier of services of the Project who has entered into a subcontract or supply agreement with the Head Contractor or with the Principal directly (**Subcontract**).

4.19 The Subcontractor has the ability to:

4.19.1 access the Platform to upload relevant business information;

4.19.2 access the Platform to upload the contract particulars of the relevant Subcontract;

4.19.3 access the Platform to view payment receipts and retention balances held in the designated account, where applicable; and

4.19.4 to object to a request made by the Head Contractor in accordance with section 4.15.4 of these Terms.

4.20 The Subcontractor must:

4.20.1 ensure that the relevant contract particulars are accurate, complete and up to date at all times,

4.20.2 rectify any factual errors and immediately notifying IPEX if there are any errors or omission in relation the particulars in respect of the relevant contract in relation to the Project; and

4.20.3 comply with all of its obligations under its Subcontract with the Head Contractor or the Principal.

4.21 The Subcontractor acknowledges and agrees that for each payment it receives from the Project Account, it is taken to receive, from the Head Contractor, the sum of:

4.21.1 the actual amount received into its nominated bank account; and

4.21.2 the fee charged by IPEX for the Platform Fee invoiced, as described in the payment confirmation and tax invoice issued by IPEX to the Subcontractor at the time of payment processing.

4.22 A Subcontractor cannot make security changes to the Platform.

5. Use on behalf of an Organisation

When you are using the Platform in relation to, or on behalf of, an Organisation:

- you must ensure that the Organisation has appointed you to access the Platform on its behalf and that the appointment has not been cancelled;
- if your appointment to represent the Organisation is based on you holding a certain position (for example, as an employee or agent), you must currently hold that position;
- if your appointment to represent the Organisation is based on you holding a certain qualification, you must currently hold that qualification, and that qualification must not currently be suspended or cancelled;
- you must only use and communicate materials relating to the Organisation that you represent within the limits of your authority from that Organisation and for no other purpose; and you agree to comply with any request made by IPEX for you to verify any of the matters set out above.

6. Platform Fees

You acknowledge that the following platform fees apply according to the applicable Organisation:

3.1 Subcontractors - the Platform Fees that apply are set out in the Fact Sheet supplied in the onboarding invitation email;

3.2 Head Contractors operating in Queensland who subscribe to the Queensland Additional Reporting Module - the Platform Fees that apply are prescribed in the Fee Schedule supplied in the onboarding invitation email;

3.3 For all other Organisations - the Platform Fees that apply are described in the Fee Schedule supplied to the designated authorised user prior to onboarding onto the Platform.

7. Project Account

7.1 You acknowledge and agree that, when you sign up to the Platform, you are consenting to us receiving and transmitting data to your designated financial institution with API integration with the Platform with respect to any accounts through which project-specific funds are received and paid ("**Project Account**").

7.2 IPEX is not liable or legally responsible for any of the payments made or received using the Platform.

8. Retention Account

8.1 The Platform may be used by a Head Contractor to transfer retention money from the Project Account into the Retention Account under and in accordance with the relevant contract, which shall be separate and independent from any Project Account.

8.2 The Retention Account may only be accessed and money withdrawn and distributed from the Retention Account in accordance with the terms of the relevant contract or otherwise where required by law.

8.3 **Retention Account** in this clause means the general project bank account operated through the Platform established by the Head Contractor for the purpose of holding any security, retention monies, or otherwise in connection with the Project and under the relevant contract.

9. Step in rights

9.1 You acknowledge and agree that, in the event of:

9.1.1 an insolvency event (as defined in the relevant Contract or Subcontract) or any other like event listed or referred to in the relevant Contract or Subcontract;

9.1.2 payment default (as defined in the relevant Contract or Subcontract);

9.1.3 the Head Contractor has failed to make payment for an amount due under a Subcontract to a Subcontractor in accordance with the relevant Contract or Subcontract;

9.1.4 release or return any retention money held by the Head Contractor;

(each a “**Default Event**”), on the date the Default Event occurs, we are authorised to accept instructions and notice from the Principal to:

9.1.5 access the Project Account and cause payment to be made to the Head Contractor or Subcontractor (as the case may be) in accordance with the terms of the relevant Contract or Subcontract; or

9.1.6 freeze any payment instructions uploaded by the Head Contractor for payments to the Head Contractor and any Subcontractor (as the case may be).

9.2 You acknowledge and agree that IPEX reserves the right to suspend processing of transactions or User access to the Platform where it reasonably believes that there is unacceptable use of the Platform or there is a dispute subsisting between the Principal and a Head Contractor until such dispute is resolved to the satisfaction of IPEX.

10. Privacy and security

10.1 If you create an account on the Platform, we will need to collect your personal information. The collection, use, disclosure, and handling of personal information is governed by our privacy collection statement which is available on the registration page, and our Privacy Policy, which is available at <https://ipex.com.au/privacy/>.

10.2 IPEX may also collect your personal information from another person as part of:

- registering an Organisation;
- inviting you to associate with an Organisation;
- managing your roles and permissions for an Organisation; and/or
- for the purpose of processing a payment.

8.3 You confirm that all of the information you provide to us, including any personal details, will be complete, true and correct.

8.4 You must promptly notify and/or update your profile if any of your User Information is erroneous or changes from time to time. By providing your contact details, you agree to IPEX contacting you via such means.

8.5 You acknowledge that the internet is an inherently insecure communication medium, and your use of the Site or the Platform is at your own cost and risk. You must take your own precautions to ensure that the process that you employ for accessing the Platform does not expose you to the risk of viruses, malicious computer code, or other forms of interference that may damage your own computer system. You agree that we have no responsibility for any use,

misuse, loss, corruption, interception, or delay of information or data uploaded, downloaded, hosted, or otherwise communicated via the Site or the Platform.

8.6 You must keep all usernames, passwords, and other security-based information secure and private at all times. We are entitled to assume that you are the User of the Platform if your username, password, or other security-based information is used to access the Platform. If your username, password, or other security-based information is lost or stolen, or if you believe your User account has been accessed by an unauthorised third party, you must notify IPEX in writing and change your password at the earliest possible opportunity.

8.7 Personal information about you collected by the Platform may be disclosed, when you are associated with an Organisation, to other Users associated with your Organisation.

8.8 You expressly consent to use by us, or any third person to collect about you via the Platform for any lawful purpose in accordance with our Privacy Policy.

10.9 You agree that your verification details provided on the Platform will be collected by Frankie Financial Pty Ltd ACN 623 506 892 in accordance with their privacy policy available at <https://www.frankieone.com/privacy>.

10.10 You agree that that Project Accounts with IPEX will include your financial information being collected directly by your financial institution in accordance with their privacy policy.

10.11 If you disclose another person's personal information to IPEX via the Platform, You warrant to IPEX that:

- the person to whom the personal information relates has consented to IPEX collecting, using and disclosing their personal information as described in IPEX's privacy collection notice available at <https://ipex.com.au/privacy>; and
- you have drawn to that person's attention the privacy collection notice.

10.12 Any information provided to you or your Organisation must remain confidential and must not be disclosed by you or your Organisation.

11. Warranties

9.1 You represent and warrant to IPEX that:

- you have all necessary rights, licences authorisations and consents in place to access and use the Site or the Platform as contemplated in these Terms, including without breaching any applicable laws or third-party rights;
- you will exercise its rights and perform your obligations under these Terms in a professional and ethical manner and in accordance with applicable laws, including the *Privacy Act 1988* (Cth) and the *Criminal Code Act 1995* (Cth);
- all payment instruction files uploaded to the Site or the Platform by you are in accordance with the Australian Banking Association file standard;

- you will comply with, and are solely responsible for compliance with, your and your Organisation's requirements and obligations under the applicable security of payment legislation;
- you have made your own inquiries and assessment on the suitability of the Site or Platform for your use; and
- any instructions or representations made to IPEX are not in breach of your obligations to other parties under any contract or agreement for the relevant Project.

9.2 IPEX and its Personnel do not make any representations or give any warranties that the Site or the Platform or any reports or other information produced by the Platform (**Platform Material**):

- is or will remain accurate, complete or current at all times;
- will not breach any intellectual property rights;
- is fit for purpose or of merchantable quality;
- is or will remain compliant with relevant Security of Payment Legislation, and they disclaim all liability for harm, loss, costs or damage which arises in connection with or out of any use or reliance on the Platform Material.

12. Intellectual Property Rights

12.1 All intellectual property rights (including copyright, database rights, and trademark rights) subsisting in, relating to, or arising out of the Site or the Platform are owned by and vest in IPEX (or its licensors).

12.2 You acknowledge and agree that these Terms do not transfer any right, title, or interest in IPEX's (or its licensors') intellectual property rights to you or your Organisation, nor may you use any of IPEX's trademarks without our prior written consent.

12.3 You must not do anything, or omit to do anything, which may infringe our intellectual property rights, except with our express written permission. This includes reproducing any part of our Site or the Platform or content on the Site or the Platform.

12.4 No Platform content (including but not limited to the copyright, logos, trademarks, designs, text, graphics, images, information, applications, and other files, and their selection and arrangement) may be modified, distributed, communicated, framed, reproduced, republished, downloaded, displayed, posted, transmitted, sold, assigned, duplicated, licensed in any form or by any means, in whole or in part, without our prior written consent. In addition, you agree not to use any data mining, robots, or similar data gathering and extraction methods in connection with the Site or the Platform.

13. Submitted materials

13.1 The Platform may allow Users to submit information, content and materials (“**User Generated Content**”) to the Platform and/or IPEX depending on your Organisation.

13.2 IPEX does not systematically review User Generated Content submitted by Users and is not responsible for the form or content of any User Generated Content.

13.3 You acknowledge and agree that if you choose to submit or post User Generated Content, you must own or have the right to submit that User Generated Content.

13.4 User Generated Content must not: (i) infringe any intellectual property rights (including copyright, database right, or trademark right) of any person or be in breach of any legal duty owed to any person, such as a contractual duty or a duty of confidence; (ii) deceive or be likely to deceive any person; (iii) be used to impersonate any person (including IPEX and its representatives or any other individual or business or to misrepresent your identity or affiliation with any person (including IPEX and its representatives); or (iv) be illegal, obscene, defamatory, threatening, pornographic, harassing, hateful, racially or ethnically offensive, encourage any conduct that would be considered a criminal offence, give rise to civil liability, violate any law or be otherwise inappropriate. If you become aware or reasonably suspect that any User-Generated Content on the Platform may infringe these requirements, you must promptly inform us in writing.

13.5 User Generated Content that you submit or share on the Platform may be seen by other Users where appropriate. Where we have made relevant settings available, we will use commercially reasonable efforts to honour the choices you make about who can see your User Generated Content.

13.6 You agree that IPEX may: (i) edit or delete your User Generated Content; (ii) link your User Generated Content to other material, including User Generated Content submitted by other Users or material created by IPEX and/or other third parties; (iii) use your User Generated Content for its business purposes; and (iv) directly or indirectly benefit from your User Generated Content.

13.7 IPEX does not promise to display any User Generated Content that you provide.

13.8 IPEX does not claim any ownership rights in your User Generated Content, however, by submitting your User Generated Content to the Platform you are deemed to grant IPEX (and its licensors) an irrevocable, perpetual, non-exclusive, royalty-free and worldwide licence to use, copy, modify, distribute, publish, communicate to the public and process that User Generated Content in connection with the Platform without any further consent, notice and/or compensation to you.

13.9 By submitting and/or uploading your User Generated Content to the Site and/or the Platform you consent to anything being done by IPEX in respect of that User Generated Material that could otherwise amount to an infringement of your moral rights in such User Generated Material, and warrant that you have obtained such consent from all other authors of such User Generated Material.

13.10 You accept and agree that you are authorised and responsible for any User Generated Content (including any edits or deletions to User Generated Content) made to the Platform using your account including where you do so on behalf of an Organisation. IPEX is not liable or legally responsible for any of the User Generated Content you make, or anybody else makes, using your account.

13.11 The Head Contractor acknowledges and agrees that the Principal on a relevant Project will have access to the following information in the “Developer Portal” (“**Approved Data**”):

13.1.1 all onboarding payees, including identification data that is publicly available; and

13.1.2 for each onboarded payee, payment date(s) analytics and subcontract payment percentage analytics.

14. Linked Sites

14.1 We may provide links to third-party websites (whether on the Site or the Platform or as part of our advertisements) or may divert your devices to third-party websites from time to time (“**Linked Sites**”). Unless otherwise noted on a Linked Site, Linked Sites are not reviewed, controlled, or examined by us in any way. The provision of links to Linked Sites does not mean that IPEX or its directors, officers, employees, or agents endorse or recommend, or have any association with, the Linked Sites or the relevant third-party goods or services.

14.2 You acknowledge and agree that we are not responsible for the content, availability, advertising, products, services, or other materials of any Linked Sites, any additional links contained on Linked Sites, or the conduct of any person associated with a Linked Site. However, IPEX may at its discretion refuse any advertisements from, or associations with, any Linked Site.

14.3 Linked Sites may be subject to their own terms and conditions and privacy policies. You acknowledge and agree that it is your sole responsibility to review and comply with those terms and conditions, and we have no responsibility for your actions when using a Linked Site.

15. Unacceptable Usage

15.1 You must only use the Site or the Platform in a reasonable manner, consistent with these Terms, our Privacy Policy, and ordinary community standards of behaviour and decency. You must comply with all applicable laws in your use of the Site or the Platform. Under no circumstance may the Site or the Platform be used for any illegal purpose, or in a manner likely to cause offence to a reasonable person.

15.2 You must not use the Site or the Platform for any purpose which we consider to be unacceptable. Examples of unacceptable behaviour include use of the Site or the Platform that: (a) would cause you or us to be in breach of any law, code or regulation; (b) attempts to obtain a

benefit or other financial advantage which you are not entitled to; (c) impersonates any person (including IPEX and its representatives); (d) depicts or promotes offensive or illegal behaviour; (e) is offensive or promotes, racism, bigotry, hatred or physical harm; (f) would harass or threaten any other person; (g) violates the privacy or confidentiality of any person; (h) involves compromising the security of any computer system or data storage system; (i) reverse engineers, disassembles, alters or modifies the operation of the Site or the Platform in any way; (j) involves the resale or resupply of the Site or the Platform to any person without our prior written permission; (k) suspicious transactions; (l) potential collusion; or (m) risks the integrity of the Site or the operation of the Platform including both payment transactions and user access.

15.3 You acknowledge and agree that we may immediately suspend or terminate your access to the Site or the Platform if you breach these Terms, or we suspect on reasonable grounds that you have breached these Terms or used the Site or the Platform for any unacceptable purpose.

15.4 We may provide you with notice if we determine that you have engaged in any of the unacceptable usage provided in clause 15.2. You must upon receiving the notice, provide us with an appropriate response to our satisfaction. We may in our absolute discretion notify any third parties of the unacceptable usage.

16. Availability and Accuracy

16.1 While we take reasonable steps to ensure the availability and security of the Site or the Platform, you accept that the Site and the Platform are provided on an “as is” basis. We do not warrant that the Site or the Platform will be continuously available and we will not be liable if the Site or the Platform or any part of the Platform is unavailable at any time or for any reason

16.2 Neither we nor our licensors (including owners of the content or User Generated Content available on the Site or the Platform) represent that the Site or the Platform (or any software underpinning the Site or the Platform) will be an error, defect, “bug” or “virus” free, and you should take prudent steps to ensure your own online security and safety. We do not promise to display any User Generated Content that you provide.

16.3 The Site and the Platform is not a storage service and you agree that we have no obligation to store, maintain or provide you with a copy of any User Generated Content that you provide, except to the extent required by applicable law or as provided in our Privacy Policy.

17. Liability and Indemnity

17.1 Without limiting any other provisions of these Terms, we will not in any way be liable to you or your Organisation for any kind of loss or damage incurred as a result of your use of the Site or the Platform including any viruses or other malicious software that may affect you or your Organisation while you use the Site or the Platform or for any faults, failures or interruptions or the accuracy, timeliness, completeness, security or reliability of any communications (including any transactions) made using the Site or the Platform

17.2 Other than the express terms of these Terms and warranties, conditions, rights, or guarantees implied by relevant legislation, including the *Competition and Consumer Act 2010* (Cth), the exclusion of which from an agreement would contravene a statute or cause part of all of these Terms to be void (“**Non-excludable Rights**”), you agree that:

17.2.1 you have the necessary rights, consents and authorisations from your organisation to make and receive payment instructions on the Platform;

17.2.2 all the information you provide us is accurate and up-to-date;

17.2.3 the Site and the Platform is provided “as-is” and “as-available” without warranties of any kind from us; and

17.2.4 IPEX excludes all liability arising from any implied or express representations, terms, conditions, or warranties of merchantability and fitness for a particular purpose, that may otherwise apply to your use of the Site or the Platform.

17.3 To the extent permitted by applicable law, under no circumstances will IPEX be responsible to you, your Organisation, or any third party whether in contract, tort (including negligence), equity, or under statute for any special, indirect, consequential, incidental or punitive damages, including damages for loss of opportunity, profits, revenue or goodwill, regardless of whether or not such loss or damage was foreseeable and even if advised of the possibility of such loss.

17.4 Except for liability in relation to breach of any Non-excludable Rights and liability under clause 17.5, IPEX’s maximum aggregate liability to you and your Organisation in contract, tort (including negligence), statute or otherwise, is limited to one thousand Australian dollars (AUD \$1,000).

17.5 IPEX’s liability arising out of or in connection with these Terms or your access to or use of the Platform (whether in contract, equity, negligence, tort or for breach of statute or otherwise) will be reduced by the extent, if any, to which you or any other party contributed to the loss.

17.6 To the maximum extent permitted by law, our liability for breach of any Non-excludable Rights is limited to:

- replacement or refund for a major failure and you may seek compensation for any other reasonably foreseeable loss or damage; or
- replacement or repair if the goods or services fail to be of acceptable quality and the failure does not amount to a major failure.

17.7 You agree to indemnify IPEX and our related bodies corporate, directors, officers, employees and agents from and against all actions, claims, suits, demands, damages, liabilities, costs or expenses, including reasonable legal fees, arising out of, or in any way connected to:

17.7.1 your use of the Site and the Platform or information or content (including User Generated Content) available by means of the Platform; or

17.7.2 the use of the Site or the Platform by anyone using your device, unless such liabilities, cost or expense is caused by IPEX's or the relevant indemnified party's wilful default, negligence or breach of these Terms.

17.8 This clause survives termination of this Agreement for any reason.

18. Cancellation and Termination

18.1 You may end your access to the Platform at any time by deleting your account to cease access or visit the Platform. Deleting your account will end your ability to access certain parts of the Platform and you will need to register again with IPEX if you change your mind. Any data or personal information that we have collected about you or your use of the Platform (including any User Generated Content) will be retained and/or destroyed in accordance with our Privacy Policy.

18.2 We may immediately suspend or terminate your account or your access to the Platform without notice or cause for any reason.

18.3 Reasons that IPEX may suspend or terminate your account or your access to the Platform include where:

18.3.1 you breach any of these Terms;

18.3.2 IPEX has ceased to provide the Platform, in whole or in part;

18.3.3 IPEX's business or contractual relationships with third parties require IPEX to do so; or

18.3.4 IPEX considers that you have done something that is detrimental to IPEX's business interests or reputation or those of any third parties.

18.4 You acknowledge that neither IPEX, nor any third party, will have any liability to you or your Organisation for any reason whatsoever arising from suspension or termination of your account to the Platform.

19. Disputes

19.1 You acknowledge and agree that we will not be involved with any dispute arising out of, or in connection with these Terms and any dispute in relation to payments made on the Platform.

19.2 In the event of a dispute, we reserve the right to suspend all payment instructions (including receipt of payments) relating to the project until the dispute has been resolved or

where a dispute is submitted to alternative dispute resolution, the independent officer gives a written decision of the dispute.

19.3 We will not be liable for any payment instructions processed that are subject to the dispute.

20. General

20.1 These Terms are governed by and are to be construed in accordance with the laws of Victoria, Australia and this applies notwithstanding any use of the Site or the Platform outside of Australia. Each party submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

20.2 If there is a contradiction or inconsistency between these Terms and any other notices, policies, communications, or documents relating to the Site or the Platform, then these Terms will prevail to the extent of that contradiction or inconsistency.

20.3 If a court determines that any provision of these Terms is invalid or not enforceable, that provision shall be read down or severed to the extent of the invalidity or unenforceability only, without affecting the remaining provisions of these Terms.

20.4 Your rights and obligations under these Terms are personal to you and you must not assign, transfer, sub-contract, or otherwise dispose of any or all of your rights and/or obligations under these Terms. We may assign, transfer, sub-contract, novate, or otherwise dispose of any or all of our rights and/or obligations under these Terms without notice to you.